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HEWSON, ACTING CO. C. J.

FEBRUARY 6TH, 1906.

COUNTY COURT OF SIMCOE.

SCOTT v. ORILLIA EXPORT LUMBER CO.

*Carriers by Water—Dangers of Navigation—Seaworthiness of
Vessel—Loss of Cargo—Right to Freight.*

Action for freight, tried before Mr. C. E. Hewson, K.C., acting for the Judge of the County Court.

G. W. Bruce, Collingwood, for plaintiff.

R. D. Gunn, K.C., for defendants.

THE ACTING JUDGE:—The plaintiff is a master mariner, and is the owner of a steam tug and a lighter or barge, and during the season of navigation on the great lakes engages in towing and in the carrying of freight, principally lumber and bark, from and to different ports on the Georgian Bay. His headquarters are at Collingwood, but he does not ply between any two defined ports or on any defined routes.

The defendants are lumber merchants, and carried on business at the town of Orillia, and, having purchased lumber from Holland, Graves, & Co., at Byng Inlet, were desirous of transporting the same to Midland, and accordingly wrote plaintiff on 5th September, 1903, as follows:—"Please tell us by return of mail, or call by 'phone, what is the smallest quantity of lumber you will go to Byng Inlet for. I think we will not have much more than 150 M to 170 M ft. Kindly let us know what your price per M would be for it delivered at Midland."